

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CANDACE SMITH,)	Case No.: 1:24-cv-0199 JLT SKO
)	
Plaintiff,)	ORDER ADOPTING IN FULL THE FINDINGS
)	AND RECOMMENDATIONS, DISMISSING THE
v.)	ACTION WITHOUT PREJUDICE, AND
)	DIRECTING THE CLERK OF COURT TO CLOSE
DANNETTE NOVOA,)	THE CASE
)	
Defendants.)	(Doc. 7)
)	

Candace Smith seeks to hold Dannette Novoa liable for “attempted vehicular manslaughter” under the California Penal Code. (*See* Doc. 1 at 5.) Because Plaintiff is proceeding *in forma pauperis*, the magistrate judge screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915(e)(2). (Doc. 7.)

The magistrate judge noted Plaintiff’s sole claim is under state law, and “[s]uch criminal claims may not be pursued in a civil lawsuit.” (Doc. 7 at 5, quoting *Grimes v. AI-Auto Care*, 2022 WL 959273, at *3 (S.D. Cal. Mar. 30, 2022).) In addition, the magistrate judge found there is not complete diversity between the parties, because “Plaintiff alleges she and Defendant are citizens of California.” (*Id.*, citing Doc. 1 at 4.) Thus, the magistrate judge concluded the Court lacks subject matter jurisdiction and diversity jurisdiction over the action. (*Id.* at 6.) The magistrate judge determined that “amendment would be futile because there is no set of facts Plaintiff could allege in an amended complaint to establish the Court’s jurisdiction over her claim.” (*Id.*) Consequently, the magistrate judge recommended the “action be dismissed without prejudice and without leave to amend.” (*Id.*)

1 The Court served the Findings and Recommendations on Plaintiff and notified her that any
2 objections were due within 21 days. (Doc. 7 at 6.) The Court advised Plaintiff that the “failure to file
3 objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson*
4 *v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the time to do
5 so has passed.

6 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this case.
7 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are
8 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 9 1. The Findings and Recommendations dated (Doc. 7) are **ADOPTED** in full.
- 10 2. Plaintiff’s complaint is **DISMISSED** without prejudice for lack of jurisdiction.
- 11 3. Leave to amend is **DENIED** as futile.
- 12 4. The Clerk of Court is directed to close this case.

13
14 IT IS SO ORDERED.

15 Dated: **March 26, 2024**


UNITED STATES DISTRICT JUDGE